

Bay Area Air Quality Management District

**939 Ellis Street
San Francisco, CA 94109**

Staff Report

**Proposed Amendments
To Regulation 1: General Provisions and Definitions;
Regulation 2, Rule 1: Permits, General Requirements;
and Proposed Regulation 2, Rule 10: Large Confined
Animal Facilities**

July 5, 2006

Prepared by:

**Joe Slamovich
Senior Advanced Projects Advisor
Engineering Division**

Reviewed by:

**Brian Bateman, Director
Engineering Division**

**Kathleen Walsh
Assistant Counsel**

Table of Contents

I.	EXECUTIVE SUMMARY	3
II.	BACKGROUND	3
III.	PROPOSED AMENDMENTS	6
IV.	AGRICULTURAL SOURCES.....	7
V.	SOCIOECONOMICIMPACTS.....	10
VI.	ECONOMIC IMPACTS.....	10
VII.	ENVIRONMENTAL IMPACTS.....	11
VIII.	REGULATORY IMPACTS	11
IX.	RULE DEVELOPMENT PROCESS.....	11
X.	CONCLUSION	12
XI.	REFERENCES.....	13
	ATTACHMENT A.	14

I. EXECUTIVE SUMMARY

Recent amendments to state law enacted new requirements for certain agricultural sources of air pollution. The focus of the legislation was to remove a statewide permit exemption for agricultural sources and to establish mitigation measures for confined animal facilities that are defined by the California Air Resources Board as “large”.

As a result, District staff is proposing to 1) amend Regulation 1: General Provisions and Definitions and Regulation 2, Rule 1: Permits, General Requirements, to require a permit to operate for agricultural sources with actual emissions of any regulated air pollutant (excluding fugitive dust) greater than 50 tons per year, and 2) create a new Regulation 2, Rule 10: Large Confined Animal Facilities.

The proposed rule changes are necessary to meet the requirements of SB 700 and comply with State law. Due to the nature and size of the agricultural industry in the Bay Area, it is the District’s belief that few, if any, agricultural facilities will be affected by these proposed regulations. Future District rule development efforts will evaluate the appropriateness of further regulation of air emissions from Bay Area agricultural sources.

II. BACKGROUND

California law and District regulations have historically exempted agricultural sources of air pollution from the need to obtain air quality permits, or comply with most other air quality regulations. In September of 2003, Senate Bill 700 (Flores) was signed into law, removing the State’s permit exemption and requiring air districts to adopt regulations for certain agricultural operations. The bill amended air pollution control requirements of the California Health and Safety Code (CH&SC) related to agricultural sources of air pollution, effective January 1, 2004.

Senate Bill 700 (SB 700) was needed to avoid potential sanctions from EPA related to provisions of the 1990 Clean Air Act Amendments that require major sources of air pollution, including agricultural sources, to obtain Title V operating permits. The scope of SB 700, however, goes beyond subjecting agricultural facilities that are major sources of air pollution to Title V permit requirements. The stated purpose of SB 700 is to “establish a new set of programs at the state and regional levels to reduce emissions from agricultural sources in order to protect public health and the environment.” SB 700 establishes several new programs related to agricultural sources, which are addressed in eleven new sections of the CH&SC. A summary of these requirements follows.

A. Control Measures in Federal Particulate Matter Nonattainment Areas

SB 700 requires an air district to adopt by rule or regulation a set of measures to reduce particulate matter (PM) emissions from agricultural sources (CH&SC Sections 40724 and 40724.5). This requirement applies in jurisdictions that have been designated as moderate or serious PM federal nonattainment areas as of January 1, 2004. These districts must adopt a rule requiring emissions controls for “agricultural practices”, including but not limited to tilling, disking, cultivation, and raising of animals, and from fugitive emissions from those practices. The requirements apply only to six California air districts (i.e., Great Basin APCD, Imperial APCD, Mojave Desert AQMD, Sacramento Metro AQMD, San Joaquin Valley APCD, and South Coast AQMD). **The Bay Area AQMD is not subject to these requirements.**

B. Control Measures for Large Confined Animal Facilities

SB 700 requires the District to adopt a rule or regulation for “large” confined animal facilities, after the California Air Resources Board (CARB) has developed a definition for this source category. A confined animal facility (CAF) includes equipment used for the collection, storage, treatment, and distribution of manure from domesticated animals maintained in restricted areas for commercial agricultural purposes where feeding is by means other than grazing. CARB has developed a definition for a large CAF as required by CH&SC 40724.6(a). Table 1 shows the large CAF thresholds for facilities located in the District.

Table 1: CARB Large CAF Thresholds

Livestock Category	Number of animals maintained on any one day
Dairy	1,000 milk-producing dairy cows
Beef Cattle (Beef Feedlots)	3,500 beef cattle
Other Cattle Operations	7,500 calves, heifers, or other cattle
Turkeys	100,000 head
Chickens	650,000 head
Swine	3,000 head
Sheep, lambs, and goats	15,000 head (any combination)
Horses	2,500 head
Ducks	650,000 head
Any other livestock not listed above	30,000 head

The rule adopted by the District must require large CAFs to obtain a permit from the District to reduce, to the extent feasible, emissions of air contaminants from the facility. Permits must include an emissions mitigation plan that demonstrates

that the facility will use reasonably available control technology to reduce pollutants that contribute to the nonattainment of any National Ambient Air Quality Standard (NAAQS). Based on District staff's review of USDA census data and other available resources, it is unlikely that any existing agricultural facilities in the Bay Area would be considered large CAFs.

C. Title V Permit Requirements

SB 700 removed exemptions that had prevented air districts from subjecting agricultural facilities to Title V permit requirements, but it did not change the applicability criteria or timelines associated with Title V permitting. The District had previously amended its regulatory exemptions for agricultural operations so that agricultural facilities were no longer exempt from Title V permit requirements when the SB 700 amendments to the CH&SC became effective (i.e., January 1, 2004). In the Bay Area, Title V applicability is based on the "major facility" emission thresholds of 100 tons per year of a regulated air pollutant, 10 tons per year of a single Hazardous Air Pollutant (HAP), or 25 tons per year of a combination of HAPs (BAAQMD Regulation 2, Rule 6). Any required Title V permit applications for agricultural facilities were due to be submitted within one year of becoming subject to Regulation 2, Rule 6 (i.e., by January 1, 2005). The District must take final action on any application submitted within eighteen months after the application has been deemed complete. **The District has not received any Title V permit applications for agricultural facilities, and staff is not aware of any agricultural facility in the Bay Area that would be considered a "major facility."**

D. Title I Permit Requirements

SB 700 requires "any agricultural source that is required to obtain a permit pursuant to Title I ... to obtain a permit in a manner consistent with the federal requirements." Title I permits are required for new "major sources," or for "major modifications" to existing major sources. As was stated above, the District knows of no agricultural facility in the Bay Area that is a major facility. **Thus, the Title I permit requirements for agricultural sources resulting from SB 700 are expected to have no impact in the Bay Area.**

E. Other Permit Requirements

SB 700 requires the District to issue permits to agricultural sources that have actual emissions equal to or exceeding one-half of any applicable emissions threshold for a major source, excluding fugitive dust (CH&SC Section 42301.16). In the Bay Area, a permit would be required for agricultural sources with actual emissions of any regulated air pollutant (excluding fugitive dust) equal to or greater than 50 tons per year. **Staff is not aware of any agricultural facility that would trigger this permitting requirement.**

III. PROPOSED AMENDMENTS

As required by SB 700, the Bay Area Air Quality Management District is proposing to modify the existing exclusion for agricultural operations in Regulation 1: General Provisions and Definitions; Regulation 2, Rule 1: Permits, General Requirements to include agricultural sources; and adopt a new Regulation 2, Rule 10:f Large Confined Animal Facilities.

The proposed changes to Regulation 1, and Regulation 2, Rule 1 require the permitting of (1) agricultural sources with actual emissions of any regulated air pollutant (excluding fugitive dust) greater than or equal to 50 tons per year, and (2) any large CAF. An agricultural source includes sources of air pollution used in the production of crops, or the raising of fowl or animals as defined in a new Regulation 2-1-239. A CAF is considered "large" if the number of animals maintained on any one day is greater than the thresholds shown in Table 1.

The proposed new Regulation 2, Rule 10, Large Confined Animal Facilities, requires that the District include in any permit to operate issued to a large CAF, permit conditions to implement control measures that represent reasonably available control technology (RACT) to reduce emissions of precursor organic compounds (POC), oxides of nitrogen (NO_x), and particulate matter (PM₁₀) from the facility. The District will review the permit to operate within three years of the date of original permit issuance and every three years thereafter, and will update the permit conditions based on changes in the operation, or the feasibility of the mitigation measures. In accordance with Section 40724.6(g) of the CH&SC, a permit holder of a large CAF may appeal any determination or decision made by the District (Regulation 2-1-410.3).

The following rules and regulations are new or have been modified:

New	Modified
Definition, Agricultural Source: Reg. 2-1-239	Exclusions: Reg. 1-110.9
Appeal: Reg. 2-1-410.3	Exemption, Sources and Operations: Reg. 2-1-113.1.2
Regulation 2, Permits: Rule 10, Large Confined Animal Facilities	Action on Applications: Reg. 2-1-408
	Loss of Exemption or Exclusion: Reg. 2-1-424
	Determination of Complete Application: Reg. 2-1-432

IV. Agricultural Sources

A. Confined Animal Facilities

Description:

The most common CAFs found in the Bay Area are dairies and they will be the focus of this report. Virtually all dairies within the jurisdictional boundaries of the District are located in Sonoma or Marin counties. These dairies are typically small, family operated businesses that have been diminishing in numbers over the years. While dairies are an important component of their county's agricultural economy, the relative sizes of these dairies are small compared to other regions in the State (see Table 2). The average number of milk producing cows per dairy in Sonoma County (374) and Marin County (354) is much smaller than the statewide average of 825 cows per dairy. In terms of milk production, the combined Sonoma and Marin county output represents approximately 2.4% (by weight) of the state total.

Table 2. Dairies, Milk Cows and Milk Production by County, 2004

County	Number of Dairies	Avg. Number Cows per Dairy	Milk Production (1,000 Pounds)
Tulare	334	1,326	9,393,729
Kern	51	2,375	2,569,755
Fresno	117	817	2,154,785
Madera	57	1,122	1,347,915
Sonoma	82	374	646,279
Marin	29	354	216,380

Note: Not a complete listing

Source: California Department of Food and Agriculture

Emissions:

In accordance with CH&SC Section 39011.5(a)(1) a Confined Animal Facility is an operation where animals are corralled, penned, or otherwise caused to remain in restricted areas for commercial purposes and primarily fed by means other than grazing. The design and operation of a CAF varies greatly depending on the animal type, climatic conditions, regional market factors, and local preferences of the operator. Animals maintained in CAFs produce liquid and solid wastes that decompose thereby producing emissions of volatile organic compounds, ammonia, hydrogen sulfide, some nitrogen compounds, and methane. Sources of fugitive particulate matter from CAFs include storage piles consisting of bedding material, feed stocks, and dried manure. The key air emission pathways include the treatment, decomposition, distribution, and

disposal of the animal's wastes; emissions from equipment used at facilities; and emissions produced directly by the animals.

In developing the definition for a large confined animal facility, the California Air Resources Board reviewed all available scientific information, including emission factors for CAFs and the effect of these facilities on air quality in the State's various air basins. For the Bay Area, CARB estimates that the total reactive organic gas (ROG) emissions for all livestock is approximately 1 ton per day, or less than 1% of the total statewide ROG inventory for this source category (see Table 3).

Table 3. Livestock ROG Emissions for 2004

Air District	All ROG Sources (tons/day)	Dairy (tons/day)	Other livestock (tons/day)	% of ROG contributed by livestock
San Joaquin Valley APCD	368.4	23.5	5.5	8
South Coast AQMD	773.3	4.6	0.7	7
Imperial County	30.2	3.3	1.9	17
Bay Area AQMD	411.7	0.7	0.3	0.2
Monterey Unified	72.9	0.5	0.1	1
Sacramento Metropolitan	69.7	0.4	0.1	1

Notes: Not a complete listing. The base emission factor for dairy operations is 12.8 lbs/head/year.

Source: CARB Staff Report: Initial Statement of Reasons, Release Date: May 6, 2005

B. Other Agricultural Operations

Description:

Other types of agricultural operations include vineyards, orchards (fruits, nuts, etc.), nurseries (ornamentals, cut flowers, etc.) and field crops (hay, silage, vegetables, etc.). In the Bay Area, wine grapes are the dominant agricultural commodity in terms of gross production value and harvested acreage. The top two agricultural products for each county in the Bay Area are shown in Table 4. Compared to other regions in California, the Bay Area's total agricultural production is relatively small. The most productive county in the Bay Area, Sonoma, ranked 17th in the state in 2004 with a total gross production value of \$528,232,000 (see Table 5). In contrast, Fresno, the most productive county in the state, had a gross production value of \$4.7 billion in the same year.

Table 4. Leading Commodities by Bay Area County, Gross Value Agricultural Production, 2004 (\$1,000)

Alameda		Contra Costa		Marin	
Ornamental Shrubs	14,839	Bedding Plants	21,500	Milk	33,202
Wine Grapes	9,052	Cattle & Calves	13,800	Cattle & Calves	8,005
Napa		San Francisco		San Mateo	
Wine Grapes	349,500	Vegetable Crops	1,351	Ornamental Shrubs	29,496
Nursery Products	3,965	Cut Flowers	574	Potted Plants	17,060
Santa Clara		Solano		Sonoma	
Nursery Stock	94,688	Nursery Stock	43,645	Wine Grapes	309,871
Mushrooms	53,917	Cattle & Calves	26,185	Milk	98,648

Source: Summary of Agricultural Commissioners' Reports, 2004

Table 5. Bay Area County Rank by Gross Value Agricultural Production, 2004

	\$1,000	Rank
Sonoma	528,232	(17)
Napa	357,215	(19)
Santa Clara	258,289	(29)
Solano	205,749	(30)
San Mateo	179,733	(31)
Contra Costa	94,753	(37)
Marin	54,898	(42)
Alameda	40,194	(45)
San Francisco	1,925	(58)

Source: Summary of Ag Commissioners' Reports, 2004

Emissions:

Air pollution emissions sources associated with the growing of crops primarily include stationary and portable engines.¹ These engines are used in crop irrigation, frost protection, and standby power generation. Depending on the particular use, engines can be diesel, gasoline, propane or natural gas-fired. The

¹ SB 700 excludes other sources of emissions such as fugitive dust, farm vehicles, pesticide application and open burning.

total annual average NOx emissions for diesel fueled agricultural irrigation pumps in the Bay Area are estimated to be 0.67 tons per day.²

Due to the nature and scale of the agricultural industry in the Bay Area, it is highly unlikely that any facility would exceed the 50 tons per year permit trigger level. As an example, a pre-1996 diesel engine would need to consume approximately 232,000 gallons of fuel per year (636 gallons per day) in order to emit 50 tons per year of NOx.

V. SOCIOECONOMIC IMPACTS

Section 40728.5, subdivision (a) of the CH&SC requires districts to assess the socioeconomic impacts of amendments to regulations that, "...will significantly affect air quality or emissions limitations, that agency shall, to the extent data are available, perform an assessment of the socioeconomic impacts of the adoption, amendment, or repeal of the rule or regulation." The District has determined that the proposed rule changes will not significantly affect air quality or emissions limitations. Furthermore, Section 40728.5, subdivision (e) states that a socioeconomic analysis is not necessary if the rule or regulation adopts a requirement that is substantially similar to, or is required by State law. The proposed rule changes are necessary to meet the requirements of California SB 700 and comply with State law.

VI. ECONOMIC IMPACTS

This section discusses the estimated costs associated with the proposed amendments. The CH&SC states, in part, that districts shall endeavor to achieve and maintain State ambient air quality standards for ozone, carbon monoxide, sulfur dioxide, and nitrogen dioxide by the earliest practicable date. In developing regulations to achieve this objective, districts shall consider the cost-effectiveness of their air quality programs, rules, regulations, and enforcement practices in addition to other relevant factors, and shall strive to achieve the most efficient methods of air pollution control.

The proposed regulations are required by SB 700; currently, however, District staff have not identified any existing or planned agricultural sources in any of the nine Bay Area counties that would exceed the trigger levels for permits and associated controls. As written, the new regulations allow a covered source to select the most cost effective strategy for reducing emissions; thus insuring that the controls for a source that triggers them in the future will be cost effective.

The San Joaquin Valley Air Pollution Control District has calculated the annual cost to control emissions from dairies in their district based on a dairy's baseline mitigation measures and the cost of mitigation measures as required by best available retrofit control technology (BARCT). According to their analysis, the

² Data source: CARB OFFROAD Model

overall annual cost to a dairy implementing BARCT emissions mitigation measures is \$65 per head per year. The cost effectiveness for a 1,000 head milking cow dairy was calculated to be \$17,800 per ton VOC reduced per year. The cost effectiveness values would likely be less in the Bay Area because the proposed Regulation 2, Rule 10 requires reasonably available control technology mitigation measures rather than the more stringent BARCT controls.

VII. ENVIRONMENTAL IMPACTS

Adoption of the proposed regulations is required by state law. The rules are intended to reduce emissions of air contaminants from large agricultural operations. Currently, however, District staff have not identified any existing or planned agricultural sources in any of the nine Bay Area counties that exceed the levels specified for imposing controls. Consequently, this action is not expected to have any environmental impact now or in the foreseeable future. If new or existing agricultural sources come within the scope of the mandated rule, the rule would be expected to minimize the impact of such a source or sources on air quality; because we do not know when or if such sources will materialize or any of the particulars about such potential sources, any other analysis of environmental impacts would be purely speculative.

VIII. REGULATORY IMPACTS

Section 40727.2 of the CH&SC imposes requirements on the adoption, amendment, or repeal of air district regulations. The law requires a district to identify existing federal and district air pollution control requirements for the equipment or source type affected by the proposed change in district rules. The district must then note any differences between these existing requirements and the requirements imposed by the proposed change. Where the district proposal does not impose a new emission limit or standard, make an existing emission limit or standard more stringent, or impose new or more stringent monitoring, reporting, or recordkeeping requirements, the district may simply note this fact and avoid additional analysis.

These proposed amendments do not impose a new standard, make an existing standard more stringent, or impose new or more stringent monitoring, reporting, or recordkeeping requirements. There are no existing federal or District air pollution control requirements for agricultural facilities.

IX. RULE DEVELOPMENT PROCESS

On March 27, 2006 District staff presented an informational briefing to the Board of Directors' Stationary Source Committee on the proposed rule changes necessary to meet the requirements of SB 700. On May 8, 2006, the District issued a notice for two public workshops to review and discuss the proposed rule changes with interested parties. The workshops were held on June 2, 2006 at the District Office in San Francisco, and on June 5, 2006 at the Sonoma County

Farm Bureau located in Santa Rosa. No members of the public attended the workshop held at the District office and eight people attended the Santa Rosa workshop. The District has received no written comments as of the date of this report. The proposed rule changes were also made available for public review and posted on the District's web site.

X. CONCLUSION

The proposed amendments to Regulation 1, General Provisions and Definitions; Regulation 2, Rule 1: Permits, General Requirements; and proposed Regulation 2, Rule 10: Large Confined Animal Facilities, are intended to meet the requirements set forth in State law. Pursuant to CH&SC Section 40727, new regulations must meet standards of necessity, authority, clarity, consistency, non-duplicity and reference. The proposed rule changes are:

- Necessary to meet the requirements of SB 700, including CH&SC Section 40724 and ARB's implementing regulations;
- Authorized by California Health and Safety Code Section 40702;
- Clear, in that the new regulation can be easily understood by the affected facility;
- Consistent with other District rules, and not in conflict with State or federal law;
- Non-duplicative of other statutes, rules or regulations; and
- Properly referenced and incorporates the provisions of CH&SC Section 40727(b)(6).

The District has determined that the proposed amendments to Regulation 1 and Regulation 2, Rule 1, and Regulation 2, Rule 10, are exempt from the provisions of the California Environmental Quality Act (Public Resources Code §21000 *et seq.*) in accordance with State CEQA Guidelines section 15061(b)(3). The amendments are administrative in nature and do not in themselves affect air emissions from any sources or operations subject to the rule. It can therefore be seen with certainty that there is no possibility that these proposed amendments will have a significant environmental impact now or in the foreseeable future. The District intends to file a Notice of Exemption in accordance with State CEQA Guidelines section 15062.

The proposed amendments have met all legal noticing requirements and have been discussed with interested parties. District staff recommends adoption of the amendments as proposed. Staff recommends the adoption of the proposed amendments to Regulation 1: General Provisions and Definitions; Regulation 2, Rule 1: Permits, General Requirements and the adoption of Regulation 2, Rule 10, Large Confined Agricultural Facilities.

XI. REFERENCES

1. Senate Bill No. 700 (Stats. 2003, Chapter 479), Flores
2. California Air Pollution Control Officers Association, Senate Bill 700 (Flores): Agriculture & Air Quality – Summary and Implementation
3. San Joaquin Valley Air Pollution Control District, Draft Best Available Control Technology, Dairy Operations, April 2004.
4. California Air Resources Board, Staff Report: Initial Statement of Reasons for Rulemaking, Public Hearing to Consider the Large Confined Animal Facility Definition, May 6, 2005
5. Yolo-Solano Air Quality Management District, Final Staff Report, Rule 11.2, Confined Animal Facilities Permit Program, May 10, 2006

ATTACHMENT A

PROPOSED AMENDMENTS TO REGULATION 1: GENERAL PROVISIONS AND DEFINITIONS; REGULATION 2: PERMITS, RULE 1: GENERAL REQUIREMENTS; and NEW REGULATION 2, RULE 10: LARGE CONFINED ANIMAL FACILITIES

REGULATION 1 GENERAL PROVISIONS AND DEFINITIONS

- 1-110 Exclusions:** District Regulations shall not apply to the following:
- 110.1 Engines used to propel motor vehicles, and defined by the Vehicle Code of the State of California.
 - 110.2 Deleted May 17, 2000.
 - 110.3 Aircraft.
 - 110.4 Fires from residential heating and residential cooking.
 - 110.5 Open outdoor fires, other than for the disposal of waste propellants, explosives or pyrotechnics by manufacturing facilities; recreational fires and outdoor cooking fires, except as limited by Regulation 5.
 - 110.6 Any emission point which is not an intended opening and from which no significant quantities of air contaminants are emitted.
 - 110.7 Smoke generators intentionally operated to train observers in appraising the shade of emissions.
 - 110.8 Air contaminants, where purposely emitted for the sole purpose of a specific beneficial use, and where essentially all of the air contaminants are confined to the area in which such beneficial use is obtained. The quantity and nature of the air contaminants, and the proportion of air contaminants used in relation to amounts of other materials involved in the beneficial use of air contaminants, shall conform to accepted practice in type of use employed.
 - 110.9 ~~Emissions arising from a Agriculture real operations sources necessary for the growing of crops or the raising of fowl or animals, except as limited by provided in: Regulation 5, and as allowed by state law for Title V permits.~~
 - 9.1 Regulation 5: Open Burning; and
 - 9.2 Regulation 2: Permits.

REGULATION 2 PERMITS RULE 1 GENERAL REQUIREMENTS

- 2-1-113 Exemption, Sources and Operations:**
- 113.1 The following sources and operations are exempt from the requirements of Sections 2-1-301 and 302, in accordance with the California Health and Safety Code:
 - 1.1 Single and multiple family dwellings used solely for residential purposes.

- 1.2 ~~Any equipment used in Agricultural sources with actual emissions of each regulated air pollutant, excluding fugitive dust, less than 50 tons per year, except for large confined animal facilities subject to Regulation 2, Rule 10, operations, in the growing of crops or the raising of fowl or animals which is exempt from permits pursuant to the Health & Safety Code.~~
- 1.3 Any vehicle. Equipment temporarily or permanently attached to a vehicle is not considered to be a part of that vehicle unless the combination is a vehicle as defined in the Vehicle Code. Specialty vehicles may include temporarily or permanently attached equipment including, but are not limited to, the following: oil well production service unit; special construction equipment; and special mobile equipment.
- 1.4 Tank vehicles with vapor recovery systems subject to state certification, in accordance with the Health and Safety Code.

2-1-200 DEFINITIONS

2-1-239 Agricultural Source: A source of air pollution, or a group of sources, used in the production of crops, or the raising of fowl or animals located on contiguous property under common ownership or control that meets any of the following criteria:

- 239.1 Is a confined animal facility as defined in Regulation 2, Rule 10;
- 239.2 Is an internal combustion engine used in the production of crops or the raising of fowl or animals, including, but not limited to, an engine subject to Article 1.5 (commencing with Section 41750) of Chapter 3 of Part 4 of Division 26 of the California Health and Safety Code, except an engine that is used to propel implements of husbandry as that term is defined in Section 36000 of the Vehicle Code, as that section existed on January 1, 2003;
- 239.3 Is a Major Facility, as that term is defined in Regulation 2, Rule 6, or that is a source that is otherwise subject to regulation by the District pursuant to Division 26 of the California Health and Safety Code or the federal Clean Air Act (42 U.S.C. Sec. 7401 eq.).

2-1-400 ADMINISTRATIVE REQUIREMENTS

2-1-408 Action on Applications: Except for applications subject to Section 2-1-412, the publication and public notice requirements of Section 2-2-405 or Section 2-10-402, or to the provisions of Rule 6 of this Regulation, the APCO shall notify the applicant in writing of approval, approval with conditions, or denial of the application within 35 working days of receipt of a completed application, unless the time is extended with the written consent of the applicant.

- 408.1 Notwithstanding this 35-working-day limit, the APCO shall not take final action for any project for which an Environmental Impact Report or a Negative Declaration has been prepared until a Final EIR for that project has been certified or a Negative Declaration for that project has been approved, and the APCO has considered the information in that Final EIR or Negative Declaration. For cases in which the 35 working-day time period has elapsed, the APCO shall take final action on the application within 30 days after the certification of the Final EIR or approval of the Negative Declaration. This subsection shall not apply to any project that is exempt from the District's CEQA requirements pursuant to Section 2-1-311 or 2-1-312. Any substantive change to an application which occurs after the evaluation period has

commenced shall allow the APCO to start a new completeness review period, and to reset the 35 working-day limit after the application has been deemed complete.

2-1-410 Appeal: The following actions of the APCO may be appealed:

- 410.1 In accordance with Section 42302 of the Health and Safety Code an applicant for an authority to construct which has been denied may request, within 30 days after receipt of the written notice to deny, the Hearing Board of the District to hold a hearing on whether or not the authority to construct was properly denied.
- 410.2 In accordance with Section 42302.1 of the Health and Safety Code, within 30 days of any decision of the APCO, pertaining to the issuance of an authority to construct, any aggrieved person who, in person or through a representative, appeared, submitted written testimony, or otherwise participated in the action before the District may request the Hearing Board of the District to hold a public hearing to determine whether the authority to construct was properly issued or for an order modifying or reversing that decision. Such appeals shall be filed in writing and contain a summary of the issues to be raised. The Hearing Board shall consider the appeal at a public hearing within 30 days of the filing of the appeal. The Hearing Board may reverse or modify the decision of the APCO if it determines that the decision was erroneous.
- 410.3 In accordance with Section 40724.6(g) of the Health and Safety Code, a permit holder of a large confined animal facility may appeal any District determination or decision made under Regulation 2, Rule 10, in accordance with subsection 2-1-410.2.

2-1-424 Loss of Exemption or Exclusion: Within 90 days of written notification by the APCO of the need for a permit, any person who operates a source which does not require a District permit or, for a large confined animal facility subject to Regulation 2, Rule 10 in existence on <date of rule adoption >, within 180 days of that date, who loses an exemption or exclusion because of changes in federal, California or District laws or regulations shall submit a complete permit application for the subject source, as defined Section 2-1-202. A person who holds a valid permit to operate for the subject source need not reapply.

2-1-432 Determination of Complete Application: Except for an application which is subject to the publication and public comment requirements of Section 2-2-405, the APCO shall determine whether an application for an authority to construct is complete not later than 15 working days following receipt of the application, or after a longer time period agreed upon by both the applicant and the APCO. If the APCO determines that the application is not complete, the applicant shall be notified in writing of the decision, specifying the information that is required. Upon receipt of any resubmittal of the application a new 15 working day period to determine completeness shall begin. For an application which is subject to the publication and public comment requirements of Section 2-2-405 or Section 2-10-402, the completeness review period(s) shall be 30 days. The application shall be deemed complete on the date of receipt of all information required for completeness. Upon determination that the application is complete, the APCO shall notify the applicant in writing. If applicable, such written notification shall include the District's determination that its evaluation of the application will be covered by the specific procedures, fixed standards and objective measurements set forth in the District's Permit Handbook and that the District's evaluation of that permit application will be classified as ministerial and will accordingly be exempt from CEQA review. Thereafter only information regarding offsets, or information to clarify, correct or otherwise supplement the information submitted in the application may be requested.

**REGULATION 2
PERMITS
RULE 10
LARGE CONFINED ANIMAL FACILITIES**

INDEX

2-10-100 GENERAL

2-10-101 Description

2-10-200 DEFINITIONS

2-10-201 Confined Animal Facility

2-10-202 Large Confined Animal Facility

2-10-300 STANDARDS

2-10-301 Emissions Mitigation Measures

2-10-302 Update of Emissions Mitigation Measures

2-10-400 ADMINISTRATIVE REQUIREMENTS

2-10-401 Content of Permit Application

2-10-402 Public Notice and Comment

2-10-403 Public Inspection

2-10-404 Permit to Operate, Final Action

2-10-500 MONITORING AND RECORDS

2-10-501 Recordkeeping

**REGULATION 2
PERMITS
RULE 10
LARGE CONFINED ANIMAL FACILITIES**

2-10-100 GENERAL

2-10-101 Description: The purpose of this Rule is to reduce emissions of air contaminants from large confined animal facilities through control measures established during permit review.

2-10-200 DEFINITIONS

2-10-201 Confined Animal Facility includes, but is not limited to, any structure, building, installation, barn, corral, coop, feed storage area, milking parlor, or system for the collection, storage, treatment, and distribution of liquid and solid manure, if domesticated animals, including, but not limited to, cattle, calves, horses, sheep, goats, swine, rabbits, chickens, turkeys, or ducks are corralled, penned, or otherwise caused to remain in restricted areas for commercial agricultural purposes and feeding is by means other than grazing.

2-10-202 Large Confined Animal Facility: A confined animal facility that maintains on any one day: 1,000 or more milk-producing dairy cows; 3,500 or more beef cattle; 7,500 or more calves, heifers, or other cattle; 100,000 or more turkeys; 650,000 or more chickens other than laying hens; 650,000 or more laying hens; 3,000 or more swine; 15,000 or more sheep, lambs, or goats; 2,500 or more horses; 650,000 or more ducks; or 30,000 or more rabbits or other animals.

2-10-300 STANDARDS

2-10-301 Emissions Mitigation Measures: The APCO shall include in any permit to operate a large confined animal facility required under Regulation 2, Rule 1 permit conditions to implement control measures that represent reasonably available control technology to reduce emissions of POC, NO_x, and PM₁₀ from the facility. The APCO shall establish a reasonable compliance schedule for facilities to implement these control measures within one year of the date on which the permit is issued.

2-10-302 Update of Emissions Mitigation Measures: The APCO shall review each permit to operate issued to a large confined animal facility within three years of the date of original permit issuance, and every three years thereafter, and update the permit conditions to meet the requirements of Section 301 based on changes in the operation, or the feasibility of mitigation measures.

2-10-400 ADMINISTRATIVE REQUIREMENTS

2-10-401 Content of Permit Application: The owner or operator of a large confined animal facility shall include in any permit application required under Regulation 2, Rule 1:

401.1 Emissions Inventory: All information necessary to prepare an emissions inventory of all regulated air pollutants emitted from the facility, including but not limited to, POC, NO_x, and PM₁₀ and fugitive emissions, using emission factors approved by the California Air Resources Board.

401.2 Emissions Mitigation Plan: An emissions mitigation plan that demonstrates that the facility will implement control measures that represent reasonably available control technology to reduce emissions of POC, NO_x, and PM₁₀,

including a reasonable compliance schedule to implement these control measures within one year of initial permit issuance.

2-10-402 Public Notice and Comment: Prior to approving the initial permit to operate for a large confined animal facility the APCO shall, within 10 days of notification of the applicant, cause to have published in at least one newspaper of general circulation within the District, and on the District's website, a notice inviting written public comment on the draft permit for a 30 day period following the date of publication. A copy of this notice shall be provided to any person who requests such specific notification in writing. A copy of the draft permit shall be sent to the ARB and each adjacent air district.

2-10-403 Public Inspection: The APCO shall make available for public inspection, at the District headquarters, the information submitted by the applicant, and the draft permit including any applicable conditions. In making information available for inspection, the confidentiality of trade secrets, as designated by the applicant prior to completion of the application, shall be handled in accordance with Section 6254.7 of the Government Code.

2-10-404 Permit to Operate, Final Action: The APCO shall, within 180 days following the acceptance of the application as complete, take final action on the application after considering all public comments. The District shall provide written notice of the final decision to the applicant and to the ARB.

2-10-500 MONITORING AND RECORDS

2-10-501 Recordkeeping: The owner or operator of a large confined animal facility shall keep records that specify the numbers of animals maintained daily and such other information as may be required by the APCO. Such records shall be maintained at a central place of business for a period of not less than three years and shall be made available upon request to the APCO.